tralia: the point being that the charge was always there but it was void against the creditors of the chargor. He stressed the rationale for registration of charges by companies, as pointed out by the High Court of Australia.

Mr Colman for the plaintiffs in reply began by saying that there were two questions to be resolved, namely, (1) whether the charge as an instrument or contract fell within any of the descriptions in s 131(3) of the Act as to require registration under s 131(1); and (2) if it did, and the company was a foreign company, then was the charge one 'on property outside Singapore' within the exclusionary expression in s 141 of the Act?

In considering the answer to the first question, one had to be able to tell at the time of *creation* whether the charge had the characteristics which would bring it within ss 131 and 141 of the Act. He stressed that (a) the charge had to be registered within 30 days of 'creation'; and (b) from ss 131(1), (3)(d), (4) and 138 of the Act the creation of the charge meant the entering into of contracts by which the security interest was effectuated. Mr Colman went on to say that because failure to register was by s 132(1) a criminal offence and because the time period for registration was within 30 days after 'creation' of the charge, one must in principle only look at the characteristics of a charge when it was created to determine whether it required registration. He drew the court's attention to *Paul & Frank* v *Discount Bank (Overseas) Ltd*[2] per Pennycuick J at pp 362-3 and *Re Oriel Ltd*,[3] at p 183D-H per Oliver LJ (as he then was).

Having approached the matter in principle, Mr Colman then referred to the judgment of Stephen J and submitted that (a) it was wrong in suggesting that a charge previously executed by a foreign company only became 'created' for the purposes of s 131 at the time when the property in question was brought within jurisdiction and that the 30-day period only ran from the day on which the property was brought within jurisdiction; (b) this 'ambulatory' construction was different from all other members of the court; and that his judgment as that in *NV Slavenburg's Bank* v *Intercontinental Natural Resources*[4] which was also relied upon by the third interveners, should be understood as confined to floating charges. Jacob J was of the view that a previously charged property when brought into the jurisdiction should be registered by applying for an extension of time. Mr Colman commented that Jacob J's reasoning was that there would have been no breach if the property was originally outside the jurisdiction and that time would not have to be 'extended' because it would never have run out. Again, Jacob J was alone in holding this view. Mr Colman relied on the dissenting judgment of –Barwick CJ and observed that in a sense Gibbs and Mason JJ supported the plaintiffs' contention.

In my judgment, on the facts of the case before me, the first preferred ship mortgage having been created on 7 May 1985 at a time when the vessel was in the Republic of Korea, some two and a half months before it called at Singapore, there was a charge on 'property outside Singapore' within s 141 and that there was no duty at any time thereafter to register the mortgage under s 131 and the vessel's presence in Singapore was irrelevant in this regard.

For these reasons, I made the orders I did.

Order accordingly.

Solicitors: *Param & Partners*; *Prakash Gurbani & Chong*; *Koh & Yang*; *Wee Ramayah & Partners*; *Haridass Ho & Partners*; *Jude P Benny & Co*; *Drew & Napier*.

Reported by *Wong Kim Fatt*

JB Jeyaretnam v Attorney General of Singapore

HIGH COURT (SINGAPORE) – SUMMONS-IN-CHAMBERS NO 3268/87 (DC SUIT NO 1451 OF 1987)
CHUA J
3 SEPTEMBER 1987

Administrative Law – Natural justice – Complaint of contempt of Parliament – Written explanation given – Whether oral hearing required to be given

Parliament – Contempt – Powers of Parliament to punish for contempt – Whether findings of contempt reviewable by court – Whether question of life or personal liberty involved – Constitution of Singapore, arts 4, 9(1) & 63 – Parliament (Privileges, Immunities & Powers) Act (Cap 217, 1985 Ed), ss 3(1) & (2), 5 & 20

Constitutional Law – Powers of Parliament to punish for contempt – Whether findings of contempt reviewable by court – Whether question of life or personal liberty involved – Constitution of Singapore, arts 4, 9(1) & 63 – Parliament (Privileges, Immunities & Powers) Act (Cap 217, 1985 Ed), ss 3(1) & (2), 5 & 20

Parliament had resolved that the appellant was guilty of contempt of the Committee of Privileges and of Parliament by his publication of five offending newsletters relating to certain proceedings of the committee. He was fined $5,000 for each of the offending newsletters. The Attorney General sued the appellant on behalf of the government of Singapore for the total sum of $25,000 and obtained summary judgment by an order of the Registrar of the Subordinate Courts. The appellant appealed to the High Court. His defences were: (a) that the finding by the Committee of Privileges and of Parliament, that the publication of the five offending newsletters by the appellant amounted to contempt of the committee or of Parliament, was wrong in law; (b) that Parliament acted in excess of its jurisdiction in imposing the fines for contempt; and (c) that the Committee of Privileges and Parliament had failed to observe the rules of natural justice.

Held, dismissing the appeal:

(1) Parliament has the right to control its own proceedings and to regulate its internal affairs without interference by the courts. Whatever matter arises concerning Parliament ought to be examined, discussed or adjudicated in Parliament and not elsewhere.

(2) Section 20 of the Parliament (Privileges, Immunities & Powers) Act expressly confers upon Parliament the power to punish for contempt whether it is committed within or outside Parliament and whether it is committed by a member or a stranger. What constitutes a contempt of Parliament is essentially a matter which only Parliament itself can decide. If a contempt issue arises relating to the internal proceedings of Parliament, the courts will decline to interfere.

(3) The appellant's contention that art 9(1) of the Constitution of Singapore, which provided that no person shall be deprived of his life or personal liberty save in accordance with law, was of prevailing effect was not correct as no question of life or personal liberty was involved in this case.

(4) The courts would not interfere on a matter of domestic discipline unless there was a breach of the rules of natural justice. In the present case, there had been no breach of the rules of natural justice. The appellant was given the right to be heard when the Chairman of the Committee of Privileges sent the complaint to the appellant for his explanation and the appellant submitted his written explanation in a letter. The rules of natural justice do not require that a hearing must be an oral hearing.

[*Editorial Note*: The appellant further appealed to the Court of Appeal vide Civil Appeal No 66 of 1987. The Court of Appeal comprising Thean, Chan Sek Keong and Rajah JJ dismissed the appeal and gave a written judgment on 15 December 1988. This judgment will be reported in a subsequent issue.]

Cases referred to

1 *Bradlaugh* v *Gossett* (1884) 12 QBD 271 (folld)
2 *British Railways Booard* v *Pickin* [1974] 2 WLR 208 (folld)
3 *Killey* v *Carson* 13 ER 225 (distd)
4 *Fenton* v *Hampton* 14 ER 727 (distd)
5 *Doyle* v *Falconer* 16 ER 293 (distd)
6 *Dill* v *Murphy* 15 ER 784 (refd)
7 *Re Brass Crosby* Vol XIX Howell's State Trials 1138 (folld)
8 *Re Sheriff of Middlesex* 113 ER 419 (folld)
9 *Ong Ah Chuan* v *PP* [1981] 1 MLJ 64 (refd)
10 *Najar Singh* v *Government of Malaysia* [1976] 1 MLJ 203 (folld)

Legislation referred to

Constitution of Singapore arts 4, 9(1), 63
Parliament (Privileges, Immunities & Powers) Act (Cap 217, 1985 Ed) ss 3(1), (2), 5, 20
Colonial Act 1854 [Aust] s 35
Constitution Act No 1 [Aust]
Parliamentary Oaths Act 1866 [UK]

Appellant in person.

Chao Hick Tin (*Soh Tze Bian* with him) for the respondent.

Cur Adv Vult

Chua J: Parliament on 27 January 1987 passed a resolution that the defendant JB Jeyaretnam was guilty of contempt of the Committee of Privileges and of Parliament by his publication of five offending newsletters relating to the proceedings of the Committee of Privileges between 8 and 12 September 1986, and that a fine of $5,000 for each of the five offending letters be imposed upon him.

Notice in writing was given by the Clerk of Parliament to the defendant of the said fines by letter dated 3 February 1987, which was delivered to him on 4 February 1987, wherein the defendant was asked to pay the fines totalling $25,000 within seven days of receipt of the letter but the defendant failed to pay.

The plaintiff, the Attorney General, Singapore, sued the defendant on behalf of the government of Singapore for the sum of $25,000 and costs in DC Suit No 1451 of 1987.

On 10 March 1987, the plaintiff applied for summary judgment against the defendant. On 7 April 1987, the Registrar of the Subordinate Courts ordered that judgment be entered for the plaintiff against the defendant for the amount claimed in the statement of claim and costs. Judgment was accordingly entered.

The defendant appealed to the High Court against the registrar's decision. I dismissed the appeal and now give my reasons.

The defences raised by the defendant were:

(a) The finding by the Committee of Privileges and of Parliament that the publication of the five offending newsletters by the defendant amounted to contempt of the Committee of Privileges or of Parliament was wrong in law.
(b) Parliament acted in excess of its jurisdiction in imposing the fines for contempt.
(c) The Committee of Privileges and Parliament had failed to observe the rules of natural justice.

The defendant submits that these are all substantial questions of law to be tried.

The defendant contends before me that Parliament here is a creature of statute – the Singapore Constitution – and must find its powers in the Constitution. The defendant argues that Parliament is not supreme; it is our Constitution that is supreme. The defendant contends that our Constitution entrusts the courts with the function of deciding whether the acts of the legislature are in accordance with our Constitution. Based on that contention the defendant submits that the authorities on British constitutional and parliamentary practices which have been cited by the plaintiff in the course of arguments are inapplicable to this case.

It is true that the concept of the supremacy of the Constitution is enshrined in art 4 of the Constitution of Singapore. However, our Constitution is based essentially on the Westminster model and adopts and codifies

most, if not all, of the laws, customs, conventions and practices of the British constitutional and parliamentary system.

Article 63 of our Constitution expressly provides that Parliament may by law determine and regulate the privileges, immunities and powers of Parliament. Section 3(1) of our Parliament (Privileges, Immunities & Powers) Act (Cap 217, 1985 Ed) provides for the reception by our Parliament of the privileges, immunities and powers of the British House of Commons. Standing Order 104 of the Standing Orders of our Parliament provides that in cases of doubt the Standing Orders of our Parliament shall be interpreted in the light of the relevant practice of the British House of Commons and in any matter for which the Standing Orders of our Parliament do not provide the British practice shall be followed, but no restriction which the British House of Commons has introduced by Standing Order shall be deemed to extend to our Parliament or its members until our Parliament has provided by Standing Order for such restriction.

Section 3(2) of the Parliament (Privileges, Immunities & Powers) Act (Cap 217, 1985 Ed) even goes so far as to provide that the privileges, immunities and powers of the British House of Commons shall for all purposes be construed and have effect as if they were prescribed by the Act itself and it shall not be necessary in any proceedings to plead the same but the same shall be judicially noticed in all the courts.

There is no merit whatsoever in the contention of the defendant. Our Parliament has the right to control its own proceedings and to regulate its internal affairs without interference by the courts. Whatever matter arises concerning Parliament ought to be examined, discussed or adjudicated in Parliament and not elsewhere.

In *Bradlaugh* v *Gossett*,[1] the plaintiff, Charles Bradlaugh, was elected a member of Parliament in May 1883. He was not allowed to take the oath required by the Parliamentary Oaths Act 1866 by the Speaker of the House of Commons. On 9 July 1883, the House of Commons passed a resolution restraining the plaintiff from taking the oath and resolving that 'the sergeant-at-arms do exclude Mr Bradlaugh from the House until he shall engage not to further disturb the proceedings of the House'. The disturbance in question arose from the attempt of Mr Bradlaugh to take the oath which the law required him to take and which a resolution of the House prevented him from taking. The plaintiff sought from the Court of Queen's Bench, first a declaration that the order of the House of 9 July be declared to be beyond the power and jurisdiction of the House to make, and to be void; secondly, an order restraining the defendant, the sergeant-at-arms, from preventing him by force from entering the House and taking the oath as a member. But the court decided against Mr Bradlaugh on the ground that the order under which the sergeant acted related to the internal management of the procedure of the House, over which they had no jurisdiction. Both Lord Coleridge CJ and Stephen J considered that the exclusive jurisdiction of the House in this instance was essential for the discharge of its functions, and was based upon necessity.

Lord Coleridge in his judgment said (at p 275):

> What is said or done within the walls of Parliament cannot be inquired into in a court of law. On this point all the judges in the two great cases which exhaust the learning in the subject – *Burdett* v *Abbott* 104 ER 501 and *Stockdale* v *Hansard* 112 ER 112 – are agreed, and are emphatic. The jurisdiction of the Houses over their own members, their right to impose discipline within their walls, is absolute and exclusive. To use the words of Lord Ellenborough 'they would sink into utter contempt and inefficiency without it'.

He concluded his judgment by saying at p 277:

> The history of England, and the resolutions of the House of Commons itself, show that now and then injustice has been done by the House to individual members of it. But the remedy, if remedy it be, lies, not in actions in the courts of law (see on this subject the observations of Lord Ellenborough and Bayley J in *Burdett* v *Abbott* 104 ER 501) but by an appeal to the constituencies whom the House of Commons represents.
>
> It follows that this action is against principle and is unsupported by authority, and that therefore the demurrer must be allowed, and that there must be judgment for the defendant.

Stephen J in his judgment said at p 278:

> I think that the House of Commons is not subject to the control of Her Majesty's courts in its administration of that part of the statute law which has relation to its own internal proceedings, and that the use of such actual force as may be necessary to carry into effect such a resolution as the one before us is justifiable.

He then went on to cite many authorities for this principle and said at p 280:

> Whatever may be the reasons of the House of Commons for their conduct, it would be impossible for us to do justice without hearing and considering those reasons; but it would be equally impossible for the House, with any regard for its own dignity and independence, to suffer its reasons to be laid before us for that purpose, or to accept our interpretation of the law in preference to its own. It seems to follow that the House of Commons has the exclusive power of interpreting the statute, so far as the regulation of its own proceedings within its own walls is concerned; and that, even if that interpretation should be erroneous, this court has no power to interfere with it directly or indirectly.

In *British Railways Board* v *Pickin*,[2] the plaintiff Pickin pleaded that a private law of 1836 setting up the Bristol to Exeter railway was obtained by fraud and misleading of Parliament. On the application of the board that plea was

struck out by the Master and Chapman J. But the Court of Appeal reversed the judge's decision. On appeal to the House of Lords, it was held that any investigation into the manner in which Parliament had exercised its function would or might result in an adjudication by the courts, bringing about a conflict with Parliament.

Lord Reid said at p 217:

> The function of the court is to construe and apply the enactments of Parliament. The court has no concern with the manner in which Parliament or its officers carrying out its Standing Orders perform these functions. Any attempt to prove that they were misled by fraud or otherwise would necessarily involve an inquiry into the manner in which they had performed their functions in dealing with the Bill which became the British Railway Act 1968.
>
> In whatever form the respondent's case is pleaded he must prove not only that the appellants acted fraudulently but also that their fraud caused damage to him by causing the enactment of s 18. He could not prove that without an examination of the manner in which the officers of Parliament dealt with the matter. So the court would, or at least might, have to adjudicate upon that.
>
> For a century or more both Parliament and the courts have been careful not to act so as to cause conflict between them. Any such investigations as the respondent seeks could easily lead to such a conflict, and I would only support it if compelled to do so by clear authority. But it appears to me that the whole trend of authority for over a century is clearly against permitting any such investigation.

Lord Wilberforce said at p 226:

> I do not understand how the courts can inquire whether Parliament was misled ...

He then went on to analyse what the plaintiff's contentions involved and he said:

> This analysis of what the plaintiff's contentions involve demonstrates, in my opinion, and validates, the reasons for the courts' firm refusal to embark on any inquiry of this kind. To do so involves them both in a potential clash with Parliament and in a series of steps which can lead to no result.

And Lord Simon of Glaisdale said at p 227:

> The system by which, in this country, those liable to be affected by general political decisions have some control over the decision-making is parliamentary democracy. Its peculiar feature in constitutional law is the sovereignty of Parliament.

The defendant says that we were ourselves at one time a colony and we have to see if our Parliament has the powers under our Constitution. He submits that our Parliament has no inherent powers to punish for contempt, whether it is committed inside the House or outside the House and he relied on the following cases.

In *Kielley* v *Carson*,[3] it was held that the House of Assembly of the Island of Newfoundland did not possess, as a legal incident, the power of arrest, with a view of adjudication on a contempt committed out of the House; but only such powers as were reasonably necessary for the proper exercise of its functions and duties as a local legislature.

In *Fenton* v *Hampton*,[4] it was held that the 'lex et consuetudo Parliamenti' (ancient usage and prescription forming part of the common law of the land) applied exclusively to the House of Lords and House of Commons in England, and was not conferred upon a supreme legislative assembly of a colony, or settlement, by the introduction of the common law of England into the colony.

In *Doyle* v *Falconer*,[5] it was held that the legislative assembly of Dominica did not possess the power of punishing a contempt, though committed in its presence and by one of its members; such authority did not belong to a colonial House of Assembly by analogy to the lex et consuetudo Parliamenti, which was inherent in the two Houses of Parliament in the United Kingdom, or to a Court of Justice, a Court of Record; a colonial House of Assembly having no judicial functions.

These three cases relied on by the defendant are entirely inapplicable to our present case. Section 20 of our Parliament (Privileges, Immunities & Powers) Act expressly confers upon Parliament the power to punish for contempt on the part of a member or a stranger. The three cases relied on by the defendant concerned the powers of subordinate colonial legislative assemblies that did not have the same exclusive privileges, immunities and powers which the ancient law of England had accorded to the British House of Commons because those colonial legislative assemblies were not granted the privileges, immunities and powers of the British House of Commons, including the power to punish for contempt, by any statute or prerogative orders. If there were any statutes or prerogative orders which expressly gave the colonial legislative assemblies the same privileges, immunities and powers as that of the British House of Commons, this would be recognized by the courts. In *Doyle* v *Falconer*,[5] the Judicial Committee of the Privy Council said at p 299:

> It may also be possible to enlarge the existing privileges of the Assembly by an Act of the local legislature, passed with the consent of the Crown ... That extraordinary privileges of this kind, when regularly acquired, will be duly recognized here, is shown by the recent case of *Dill* v *Murphy* 15 ER 784.

In *Dill* v *Murphy*,[6] the legislative assembly of Victoria was constituted by the Colonial Act of 1854, which Act was ratified and set out in the Schedule to the Imperial Act of Parliament, 18th and 19th Vict, c 55. By s 35 of the Act of 1854, the legislature of Victoria was empowered to 'define' the privileges, immunities and powers to be held, enjoyed, and exercised by the legislative council and legislative assembly, and by the members

thereof respectively. In pursuance of this power, the colonial legislature of Victoria by an Act, called the Constitution Act, 20th Vict No 1, enacted that the legislative council and legislative assembly of Victoria, and the committees and members thereof respectively, should hold, enjoy, and exercise such and the like privileges, immunities and powers as at the time of the passing of the Imperial Act of Parliament, 18th and 19th Vict, c 55, were held, enjoyed and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the committees and members thereof. The Judicial Committee of the Privy Council held that the Constitution Act, enacted pursuant to s 35 of the Colonial Act of 1854 defined and conferred upon the legislative council and legislative assembly of Victoria the privileges, immunities and powers of the British House of Commons, and the privilege of arrest for contempt against a certain printer and publisher for publication of a libellous article was rightly exercised by the legislative assembly of Victoria under the Constitution Act. The Privy Council also held at p 794 that it was not necessary for the colonial legislature, in defining its privileges, immunities and powers to specify, one by one, the privileges, immunities and powers of the British House of Commons which it decided to claim but could do so more conveniently by way of s 35 of the Colonial Act of 1854 and the Constitution Act.

Article 63 of our Constitution (almost in pari materia to s 35 of the Colonial Act of 1854 in *Dill* v *Murphy*[6]) provides that it shall be lawful for the legislature by law to determine and regulate the privileges, immunities or powers of Parliament. In pursuance of art 63, our Parliament enacted the Parliament (Privileges, Immunities & Powers) Act (Cap 217, 1985 Ed) ('the Act'). Like the Constitution Act in *Dill* v *Murphy*,[6] s 3(1) of the Act provides that the privileges, immunities and powers of Parliament and of the speaker, members and committees of Parliament shall be the same as those of the Commons House of Parliament of the United Kingdom and of its speaker, members or committees on the establishment of the Republic of Singapore. In fact, our s 3(2) even went so far as to provide that such privileges, immunities and powers shall for all purposes be construed and have effect as if those privileges, immunities and powers were prescribed by the Act, and it shall not be necessary in any proceedings to plead the same but the same shall be judicially noticed in all the courts.

It is clear beyond doubt that our Parliament has the power under s 20 of the Act to punish for contempt whether it is committed within or outside Parliament, and whether it is committed by a member or a stranger.

According to Erskine May, *Parliamentary Practice*, 20th Ed, at pp 152-153, publication of a false or perverted account or scandalous misrepresentation of proceedings of the House or any of its committees amounts to misconduct and a breach of privileges. By virtue of s 3 of the Act this forms part of our parliamentary law and practice. So, the publication of the five newsletters was adjudged by Parliament to amount to contempt.

The authorities are clear that the courts have no jurisdiction to look beyond such decision of Parliament.

Parliament, like the superior courts, has power to commit persons, including its members for contempt for whatever conduct it adjudges to amount to contempt. What constitutes a contempt of Parliament is essentially a matter which only Parliament itself can decide. If a contempt issue arises relating to the internal proceedings of Parliament, the courts will decline to interfere.

> When the House of Commons adjudges anything to be a contempt or a breach of privilege, their adjudication is a conviction, and their commitment in consequence is in execution; and no court can discharge or bail a person that is in execution by the judgment of another court. The House of Commons, therefore, having authority to commit, and that commitment being in execution ... this court can do nothing ... in such case this court is not a court of appeal.

So said De Grey LCJ in the case of *Re Brass Crosby*.[7] This principle was applied in the case of *Sheriff of Middlesex*[8] where it was held that in habeas corpus proceedings, the court had to accept the statement by the House that the sheriff had been guilty of contempt.

It is clear from the above authorities that it is established British constitutional and parliamentary law and practice that the courts do not have the jurisdiction to inquire into matters which arose out of and are internal proceedings and procedures of Parliament so that what amounts to contempt of Parliament is essentially a matter which only Parliament itself can decide. This rule is reaffirmed by s 5 of our Act which clearly states:

> There shall be freedom of speech and debate and proceedings in Parliament, and such freedom of speech and debate and proceedings shall not be liable to be impeached or questioned in any court, commission of inquiry, tribunal or any other place whatsoever out of Parliament.

The defendant says that above Parliament stands the liberty of the subject and Parliament cannot do what it likes resulting in the subject being powerless and without remedy at all. This, says the defendant, is to fly in the teeth of art 9(1) of our Constitution which provides:

> 9(1) No person shall be deprived of his life or personal liberty save in accordance with law.

The defendant submits that there is a question to be tried: does art 9(1) prevail or not?

In the present case art 9(1) has no application as no life or personal liberty is involved.

In the case of *Ong Ah Chuan* v *PP*,[9] the Privy Council said at p 71:

> In a constitution founded on the Westminster model and particularly in that part of it that purports to assure to all individual citizens the continued enjoyment of fundamental liberties or rights, references to 'law' in such contexts as 'in accordance with law', 'equality before the law', 'protection of the law' and the like, in their Lordships' view, refer to a system of law which incorporates those fundamental rules of natural justice that had formed part and parcel of the common law of England that was in operation in Singapore at the commencement of the Constitution. It would have been taken for granted by the makers of the Constitution that the 'law' to which citizens could have recourse for the protection of fundamental liberties assured to them by the Constitution would be a system of law that did not flout those fundamental rules. If it were otherwise it would be misuse of language to speak of law as something which affords 'protection' for the individual in the enjoyment of his fundamental liberties, and the purported entrenchment (by art 5) of arts 9(1) and 12(1) would be little better than a mockery.

Under the general principles of natural justice, the courts would not interfere on a matter of domestic discipline unless there was a breach of the rules of natural justice. The defendant says that the questions to be tried are (a) whether he was given a reasonable opportunity to be heard by the committee before it made its recommendations or (b) whether he was given any opportunity to be heard by Parliament before the resolution was proposed by Parliament.

In the present case there had been no breach of the rules of natural justice. The defendant was given the right to be heard when the Chairman of the Committee of Privileges sent the complaint by the member for Kallang dated 9 October 1986 to the defendant for his explanation and the defendant submitted his written explanation in a letter dated 10 November 1986.

The rules of natural justice do not require that a hearing must be oral: see *Najar Singh* v *Government of Malaysia*.[10]

The procedure of the Committee of Privileges in the British House of Commons for investigating complaints is set out in Wade & Bradley, *Constitutional & Administrative Law*, 10th Ed, at p 222 and the following comments appear at p 223:

> This procedure has been criticized, in particular on the ground that the individual against whom the complaint is made has inadequate procedural safeguards; thus he does not have the right to be heard or to be legally represented, to have notice of the charge against him, to cross-examine witnesses or call evidence, or to receive legal aid. In 1967 the Select Committee on Parliamentary Privilege recommended improvements in the procedure which went some way to meeting these criticisms but these proposals were not adopted. It would only be possible to meet the major criticism, that the House is judge in its own cause, if power to decide questions of privilege were vested in a body outside the House. This the House has not been prepared to do.

In De Smith, *Constitutional & Administrative Law*, 5th Ed, the following commentary on the procedure of the Committee of Privileges of the British House of Commons appears at p 337:

> It does not, in practice, afford the persons against whom the complaints have been made any opportunity of being legally represented, and it has sometimes reported that a complaint has been established ... although the 'defendant' has not been given any hearing at all. In the *Straus* case the committee condemned the members of the area board without hearing them. Since, moreover, the members of the committee are in a sense judges in their own cause, this disregard of the elements of natural justice is open to severe criticism. In 1967 the Select Committee on Parliamentary Privilege recommended a number of procedural reforms, which would give all persons directly concerned a right to attend its hearings, make submissions, and call, examine and cross-examine witnesses; and rights to seek the committee's leave to be legally represented and to ask for legal aid. These necessary reforms had yet to be brought into effect at the time of writing.

The British House of Commons decided that powers to decide questions of privilege should not be vested in a body outside the House. To hold otherwise would mean that the speaker and other members of the House would be required to appear in court to explain their conduct.

The issues raised by the defendant arose out of and relate entirely and directly to the internal proceedings of Parliament and involve the question how Parliament and its Committee of Privileges should regulate its own internal proceedings, matters beginning and terminating within the four walls of Parliament and which are clearly outside the jurisdiction of the courts. The defendant has failed to raise any triable issues or arguable issues which the courts have jurisdiction to try and the plaintiff is entitled to judgment.

The parties have agreed that the result of the appeal in Suit MC 2339/87 would follow the result of this appeal. In Suit MC 2339/87, the Attorney General, on behalf of the government of Singapore, sued the defendant in the Subordinate Courts for the sum of $1,000 due to the government of Singapore on account of a resolution passed by Parliament on 27 January 1987, that the defendant was guilty of abuse of the privileges of Parliament in his allegation of executive interference in the judiciary and that a fine of $1,000 be imposed on him. On the application of the plaintiff for summary judgment against the defendant, the Registrar of the Subordinate Courts, on 7 April 1987, ordered that judgment be entered against the defendant for the amount claimed in the statement of claim and costs, and judgment was accordingly entered. The defendant has also appealed against the order of the registrar.

Order accordingly.

Reported by *PS Ranjan*